

110 FERC ¶61,126
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suede G. Kelly.

Sierra Pacific Resources Operating Companies

Docket No. ER05-14-001

ORDER GRANTING CLARIFICATION

(Issued February 11, 2005)

1. This order grants the request for clarification filed jointly by Truckee Donner Public Utility District, the City of Fallon, Nevada, and Newmont Mining Corporation (collectively, Network Customers) of an order issued on November 30, 2004, concerning proposed changes to Sierra Pacific Resources Operating Companies, Sierra Pacific Power Company and Nevada Power Company's (jointly, SPR) transmission service rates in SPR's Zone A – *i.e.*, those pertaining to the transmission system of Sierra Pacific Power Company (Sierra Pacific Power), SPR's wholly-owned subsidiary.¹ This decision benefits customers by promoting efficient resolution of the disputes over SPR's proposed revisions.

Background

2. In the November Order, the Commission accepted and suspended for five months SPR's proposed changes to the transmission service rates in SPR's Zone A, and established hearing and settlement judge procedures. The Commission also accepted SPR's proposal to adopt a monthly stated rate to replace its current load-ratio-share methodology for network transmission services in Zone A, but included in the hearing and settlement judge procedures the issue of whether any further modification was required to the proposed rate design. The Commission further rejected the request that SPR be directed to modify its proposal to require that the applicable rate be periodically recalculated in accordance with current billing determinants consistent with our decision in *Southwest Power Pool, Inc.*²

¹ *Sierra Pacific Resources Operating Companies*, 109 FERC ¶ 61,245 (2004) (November Order).

² 96 FERC ¶ 61,034 (2001), *order on reh'g*, 96 FERC ¶ 61,307 (2001) (*Southwest Power Pool*).

3. The Network Customers ask the Commission to clarify that the November Order was not intended to foreclose further exploration in the hearing and settlement discussions of the need for some form of updating of the stated network rate, or some other modification of the design for the stated network rate. They argue that although the Commission accepted SPR's proposal to convert to a stated rate methodology for network transmission rates in the November Order, the Commission did not approve the exact contours of the stated network rate. However, the Network Customers state, SPR has indicated that it interprets the November Order as foreclosing any further consideration of updating or any other modifications of the stated network rate design. Thus, the Network Customers ask the Commission to clarify that the November Order did not intend to foreclose further exploration through hearing and settlement judge proceedings of the need for some form of updating of SPR's stated network rate, or some other modification of the design for the stated network rate to protect network customers.

4. The Network Customers state that if the Commission finds that the Network Customers' interpretation of the November Order is incorrect, the Commission should grant rehearing. They argue that the Commission erred in the November Order in its reliance on the decision in *Southwest Power Pool*. According to the Network Customers, the Commission's premise in the November Order – that the Southwest Power Pool proposal included annual automatic modifications – is factually incorrect. They argue that Southwest Power Pool had in fact proposed only a one-time adjustment to its stated rate and not an automatic adjustment and Southwest Power Pool had also indicated that it would subsequently revisit the use of stated network rates.

5. On January 11, 2005, SPR filed an answer. SPR disagrees that the November Order is ambiguous and asserts that the Commission clearly rejected the protesters' request for the requirement of a periodic updating of the billing determinants used to calculate SPR's stated network rate. SPR further contends that the Commission should deny SPR's request for rehearing of the November Order.

6. On January 13, 2005, the Network Customers and SPR filed a joint motion for expedited consideration of the Network Customers' request for clarification or rehearing. In their joint motion for expedited consideration, the parties state that it has become clear through the discussions at their settlement conferences that further attempts to settle will be hampered by the uncertainty surrounding the pending motion.

Discussion

7. As discussed below, the Commission will grant the Network Customers' request for clarification.

8. We clarify that we did not intend to foreclose exploration of further consideration of updating or any other modifications of the stated network rate design in the hearing

and settlement judge proceedings. As noted above, in the November Order, we accepted SPR's proposal to convert to a stated rate methodology for network transmission service in its Zone A. We further rejected the request of the protesters that we direct SPR to modify its stated rate proposal to include some form of periodic recalculation in accordance with current billing determinants consistent with our decision in *Southwest Power Pool*. SPR's proposal did not include any form of periodic adjustment and protesters did not support their assertion that the Commission should summarily require SPR to revise its proposal to include some form of periodic adjustment. However, this rejection of the protesters' request that we summarily direct SPR to include an automatic modification procedure in its stated rate design was not intended to prevent the parties from addressing, in the hearing or settlement judge procedures, whether updating or any other modifications of the stated network rate design are needed. Indeed, our statement earlier in the order wherein we set for hearing and settlement judge procedures the appropriate level of the stated rate, as well as whether any further modifications are required to the proposed rate design, supports this finding.³

The Commission orders:

The Network Customers' request for clarification is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

³ November Order, 109 FERC ¶ 61,245 at P 9.